

LAND USE CONTROL BOARD RECOMMENDATION

CASE #: P. D. 08-306 CC

At its regular meeting on ***Thursday, April 9, 2009***, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application requesting a planned development on the property described as follows:

LOCATION: Northwest corner of Houston Levee Road and Walnut Grove Road

OWNERS/APPLICANTS: Walnut Grove Properties, LLC

REPRESENTATIVE: Farris-Bobango-Branan, PLLC

REQUEST: Planned development to consolidate parcels into one(1) Outline Plan to allow a mixed-use plan of office and retail, including upper-story residential and live/work units, multi-family apartments/independent senior living facility and planned commercial development.

AREA: 101.46 Acres

EXISTING LAND USE & ZONING: Vacant land governed by P.D. 97-365 CC & P.D. 03-387 CC.

The following spoke in support of the application:

Homer Branan, representative; One Commerce Square-Suite 2000, Memphis, TN 38103 stated: “staff has done a good job in describing what we have been through since December, 2008. As you know we’ve been down here asking to hold this case—they have asked—and we have asked to hold this case. We have worked on this thing. This has been a real challenge for us. We finally got our client to agree to a connection of these two roads. Our client was convinced that if his property was divided by a public road...that it would make it less useable. Our representatives who are handling this from CB Richard Ellis confirmed that they were very concerned about the road affecting the value of its property and a retirement community or a multi-family access area—very concerned about it, but the staff have worked with us and we have a connection. Our client reluctantly, has agreed to that and compromised and come to an agreement on that road connection—to have that connectivity. So that was the main issue, but it took four months to get that accomplished and we’re here today to tell you that we are in total agreement with the staff and appreciate everything they have done. I understand that there may be some concern about our road connection, but I wanted you to know that we have worked very hard and finally come up with this plan and we hope that you will recommend approval of this to the legislative bodies.”

The following spoke on the application.

Ron Harkavy, representative; 6060 Poplar Avenue-Suite 140, Memphis, TN 38119 stated: ‘I represent Coastal Fuels, Jim Etheridge couldn’t be here...we are not opposed to this project...we are 100% for the project...it’s a fantastic thing...it belongs there...it should be there. I don’t want to stop it today, if I have to we’ll fight it at City Council, County Commission, but I want to make sure you’re aware of certain things. When we started this a couple of years ago, we worked hand-in-hand with the applicant to try and accommodate the two properties...at that time there was going to be connectivity up at the northern section of the property....that is approximately where the road was going to curve in and that was going to be our access to Walnut Grove road. As time went by, the developer/owner of Canale Grove decided that they did not want to have the common access between the two

properties...we kept holding our case month after month after month waiting on them and we tried to cooperate with staff to see how we could accommodate the connectivity of the road system. Etheridge eventually gave in and agreed to build a road all the way from Walnut Grove Road all the way back through his property. At the same time, through staff over and over and over....‘this road ought to be built by the parties on both sides of the road...it should not be on my property at my expense.’ Well, Canale Grove had pulled the plug on their property for the time being, so there was no way anybody could make them do anything. Eventually, we were told if we want to go forward with support of staff, we’re going to have to build that road on our side of the property. I remember Jim saying, ‘Well if they ever come to you, would you make sure or try to make sure that the common road is down the middle of the boundary line’...which as all of you can see would be the fair thing to do. I’m here to say to you, we’re going to try to work this out before we get to City and County, but Etheridge is very, very adamant that one of three things has to happen:

Number 1—he takes the road off the common boundary line and moves it over to the middle of his property so that he gets two corners on Walnut Grove Road rather than giving them a corner on Walnut Grove Road.

Number 2—we have the curvilinear road that comes through their property to Walnut Grove and we don’t have to build anything up to Walnut Grove Road...staff would not like that at all and I understand that....

Thirdly—and the preference is...that they be required to build their half of the road to Walnut Grove along the common boundary line. Again, I don’t want to make an issue of this today...we will try and deal with it after we leave here today, but I think it’s a problem that needs to be resolved.”

The Land Use Control Board viewed the application of ‘*Walnut Grove Properties, LLC*’, requesting a planned development and the report of staff. A motion was made and seconded to recommend approval of the application with conditions.

The motion *passed* by unanimous vote of 7 to 0.

The Board approved the conclusions of the staff as contained in the staff report.

Respectfully submitted,

**Brian S.
Bacchus**

Brian S. Bacchus, Principal
Mary L. Baker, Deputy Director
Office of Planning and Development

Digitally signed by Brian S. Bacchus
DN: cn=Brian S. Bacchus, c=US, o=Office of
Planning & Development, ou=Land Use Control,
email=brian.bacchus@memphistn.gov
Reason: I attest to the accuracy and integrity of this
document
Date: 2009.05.22 09:09:24 -05'00'

**Cc: *P & Z Committee Members*
*File***

Land Use Control Board
OUTLINE PLAN CONDITIONS:

I. USES PERMITTED:

- A. Areas 1, 2, 3, and 4 – Town Center Retail and Retail Lots - Office and Commercial uses as permitted by right or administrative site plan review in the Planned Commercial(C-P) District, except the following uses that are prohibited:

Group Shelter
 Outdoor Sales
 Green house or Nursery, Commercial
 Pawn Shop
 Farm Labor Management Services
 Amusements, Commercial Indoor
 Garage Commercial
 General Service and Repair Shop
 Greenhouse or Nursery
 Lawn, Tree or Garden Service
 Used goods, Second Hand Sales
 Vehicle Wash

Note: Area 1: Residential Lofts (a minimum of 100 units) are allowed above retail uses at one or two floors in height. Any Residential above Retail is evaluated as a bonus above the allowed DU/AC or F.A.R. Any Loft type residential along with the Underlying Base Use shall adhere to the Shared Parking Policy as indicated in the Memphis and Shelby County Subdivision Regulations.

- B. Area 5 (Office) - Office uses as permitted by right or administrative site plan review in the General Office (O-G) District.
- C. Areas 5A and 6 (Office/Residential - Live/Work Units)
 Office/Residential uses as permitted by right or administrative site plan review in the General Office (O-G) District.

Note: Residential Areas 5A and 6: Residential lofts (a minimum of 36 units) above Office is evaluated as a bonus above the allowed DU/AC or F.A.R. Any Loft type residential along with the Underlying Base Use shall adhere to the Shared Parking Policy as indicated in the Memphis and Shelby County Subdivision Regulations.

- D. Area 7 (Multifamily) – Residential uses as permitted by right or administrative site plan review in the Multiple Dwelling Residential (R-ML) District.

Area 7 Alternative Use (CCRC - Continuing Care Retirement Community) – Continuing Care Retirement including, Assisted Living Facility, Licensing Health Care Facilities, Senior Housing/Independent Living, Attached and Detached Senior Homes or Cottages, Nursing Home, and Associated Medical Buildings.

Accessory Uses: The following shall be permitted for the convenience of the Residents and their guest, but not for the general public. Accessory uses shall include, but not be limited to the following:

1. Banking Facility
2. Beauty and or Barber Shop
3. Central Dining Facilities
4. Convenience Retail Shop
5. Chapel/ Place of Worship
6. Pharmacy

- E. Area 7A – (Multifamily)/(CCRC-Continuing Care Retirement Community)
This area and its uses shall be limited to a Complex Sign for Area 7, drainage, utilities, and detention needs.
- F. Area 8 – Common Open Space(C.O.S.) – Open Space uses as permitted by right or administrative site plan review.

II. BULK REGULATIONS:

- A. Areas 1,2,3, and 4 (C-P) with following exceptions:

1. Front Yard Setback – 8 feet – 90 feet
2. Side/Rear Setback abutting single Family – 10 feet
3. Side/Rear Setback abutting multifamily, nonresidential- 0 feet 10 feet
4. Maximum Building Height – 45 feet (Area 1)
5. Maximum Building Height – 35 feet (Area 2,3, and 4)
6. Maximum Floor Area Ratio - .30 FAR (Area 1)
7. Maximum Floor Area Ratio - .25 FAR (Area 2,3, and 4)

- B. Areas 5,5A, and 6 (O-G) with following exceptions:

1. Front Yard Setback – 7 feet
2. Side (Street) – 7 feet
3. Side/Rear Setback abutting single Family in Areas 5A and 6 – 10 feet
4. Side/Rear Setback abutting single Family in Area 5 – 40 feet
5. Side/Rear Setback abutting multifamily, nonresidential- 0 feet- 10 feet
6. Maximum Building Height – 35 feet

7. Maximum Floor Area Ratio - .25 FAR
8. Area 5 – A maximum of a one-story building within 200 feet of north property line.

C. Area 7 (R-ML) with the following exceptions:

1. Front Yard Setback – 7 feet – 15 feet
2. Side Setback (Interior) 5 feet
3. Side Setback (Total) 10 feet
4. Side Setback (Street) 10 feet
5. Rear Setback 20 feet
6. Maximum Building Height – 45 feet
7. Maximum Floor Area Ratio - 15 DU/Ac
8. 150 foot Building Setback from North Property line
9. Maximum of 10% allowed as 3 bedroom units.

Area 7 (CCRC-Continuing Care Retirement Community)

1. Front Yard Setback – 80 Feet
2. Setback at north line – 150'
2 stories allowed between 150' and 175'
3 stories allowed between 175' and 200'
4 stories allowed at 200' or more.
3. Rear Yard Setback – 20 feet
4. Side Yard Setback – Internal side yard setbacks within CCRC 20 feet
5. Max. Building Height – 45 feet (Independent Living Facility)
6. Max. Floor Area Ratio:

1 Story:	10 DU/AC.
2 Stories:	15 DU/AC.
3 Stories:	20 DU/AC.
4 Stories:	25 DU/AC.
7. Free-standing Single Family Detached and Attached dwelling units shall be calculated on the gross acreage of Area 7 at 5 DU/AC if used as Senior Housing in conjunction with the Independent Living Facility.
8. That portion of Area 7 designated on the Outline Plan in the northeast portion of Area 7 shall be utilized as a storm water detention area.
9. Area 7A (R-ML) and (CCRC) Density Rights, DU/AC. shall be transferred to Area 7.

III. ACCESS, PARKING AND CIRCULATION:

- A. Dedicate 57 feet from the centerline of Walnut Grove Road and improve in accordance with the Subdivision Regulations of Shelby County Paving Policy.
- B. Dedicate 57 feet from the centerline of Houston Levee Road and improve in accordance with the Subdivision Regulations of Shelby County Paving Policy.

- C. Curb cuts within 300 feet from the centerline intersection of Houston Levee Road and Walnut Grove Road shall be limited to right-in/right-out access only. The design and location of curb and median cuts along Walnut Grove and Houston Levee are subject to approval of the City / County Engineer.
- D. Provide internal circulation between adjacent phases, lots and sections.
- E. A maximum of four (4) curb cuts and one (1) Roadway Intersection shall be permitted along Houston Levee Road.
- F. A maximum of five (5) curb cuts and one (1) Roadway Intersection shall be permitted along Walnut Grove Road.
- G. All private drives and rear service drives shall be a minimum width of 20 feet and constructed to meet pavement requirements of the Memphis and Shelby County Subdivision Regulations.
- H. Parking shall be provided in accordance with the Memphis and Shelby County Subdivision Regulations.
- I. An interconnected pedestrian walkway system shall provide internal pedestrian circulation throughout the development.
- J. The Public Road, Street "A" connecting with Houston Levee Road and Walnut Grove Road shall be designed as a Minor Collector Road with 20 feet from the face of curb to face of median curb, each side.
- K. Pedestrian Crosswalks on this roadway (Street "A") shall be identified with pavement patterns or markings that are easily understood by the pedestrian.
- L. The Public Road, Street "B" connecting the adjacent property, Woodland Hills II, to Canale Grove P.D. shall be a 31' R.O.W. consisting of 31' back of curb to back of curb.
- M. Proposed traffic signals shown on the plans require study for the traffic warrants. If warranted, they will be installed at the developer's expense.

IV. LANDSCAPING AND SCREENING:

- A. A 25-foot wide Streetscape (Plate 1) shall be provided along Walnut Grove Road and Houston Levee Road. Hardwood street trees shall be planted 40 feet O.C. with a caliper of 4 1/2 to 5 inches. Plate 1 shall be excluded from Area 8.
- B. A 30-foot wide Landscape Screen (Plate 2) with an eight-foot (8') high solid cedar wood fence shall be provided along the north property line. The Canale Grove Developer reserves the option to add a decorative type pattern on his side of the fence. This fence shall be installed at the time the Canale Grove Planned Development has been approved by the Land Use Control Board, Shelby County Commission, and the Memphis City Council, and will be filed as Phase 1, Final Plan. See Condition IV. O. for landscape requirements and timing.

- C. A minimum 25-foot wide Landscape Screen (Plate 3) shall be provided along the east property line of Area 5 and the north property line of Area 4 if the properties along Houston Levee Road are zoned or developed as Residential at the time of Final Plan submittal for Areas 4 and 5.

Note: Landscape Screen Plate 3 only required if adjacent properties are developed as Residential. Buffer Plate may be modified to relate to use of property as zoned or developed.
- D. A 15-foot wide Landscape Screen (Plate 4) shall be provided along the property line of Area 5 when abutting Area 7, along the north lines of Areas 2 and 3 when abutting Street "B" (31' R.O.W.) and along the west line of Area 7.
- E. A Streetscape (Plate 5) shall be provided along Canale Grove Parkway in Areas 1 and 4.
- F. A Streetscape (Plate 6) shall be provided along Canale Grove Parkway in Areas 2, 5A, 6 and 7.
- G. An interior landscaped island shall be provided for every ten spaces. Each island shall contain a minimum of 200 square feet with a minimum width of eight feet inside the curb and include a minimum of one hardwood tree with a minimum caliper of 4 ½ inches. Planting islands shall be evenly distributed throughout the parking area, with no parking space being more than 100 feet from a planting island.
- H. All required landscaping shall not conflict with any easements including overhead wires.
- I. All heating and air conditioning equipment shall be screened, if possible, from views from public roads by use of landscaping or architectural features.
- J. Lighting fixtures shall be a maximum of 30 feet in height within retail parking areas and shall be a maximum of 15 feet in height within non-vehicular pedestrian, office, and residential areas. All light fixtures located north of the loop road shall not exceed 15 feet.
- K. Equivalent landscaping may be substituted for that required above, subject to approval of the Office of Planning and Development.
- L. All refuse dumpsters shall be completely screened from view from all adjacent properties and from any public roads. In addition, no refuse dumpsters shall be permitted within 150 feet of the north line of Area 5 and Area 7.
- M. All apartments shall have a minimum of fifty (50) percent of the opaque wall area consisting of brick material.
- N. No active recreational facilities shall be permitted within 150 of the north property line in Area 7.
- O. Commensurate with the first final plan containing a building envelope, a minimum of one row of evergreen seedling trees shall be planted along northern property line which shall be considered as a part of the landscape screen required in condition IV.-B. above.

- P. A 12.0' wide utility and pedestrian easement shall be provided along the north and south sides of Street "B" (31' R.O.W.). The easement shall consist of an 8.0' wide tree lined grass strip and a 4.0' wide sidewalk.

V. SIGNS:

- A. Attached and detached signs within Areas 1, 2, 3, and 4 shall conform to the Memphis and Shelby County Subdivision Regulations pertaining to (C-P) District Regulations.
- B. Attached and detached signs within Areas 5, 5A, and 6 shall conform to the Memphis and Shelby County Subdivision Regulations pertaining to (O-G) District Regulations.
- C. Attached and detached signs within Area 7 and 7A shall conform to the Memphis and Shelby County Subdivision Regulations pertaining to (RM-L) District Regulations.
- D. Portable and temporary signs and outdoor advertising signs shall be prohibited except for construction signs.
- E. Blade Type Signs are allowed in (C-P) and (O-G) Districts.
- F. A development identification sign may be allowed within Area 8 and must be incorporated as part of the Intersection Enhancement Area and may be used as a backdrop or hardscape element.
- G. Temporary "No Trespassing" signs shall be posted at the time the Canale Grove Planned Development has been approved by the L.U.C.B., County Commission and the Memphis City Council. Three (3) on Walnut Grove Road and two (2) on Houston Levee Road.

VI. DRAINAGE:

- A. A comprehensive drainage study of the entire site shall be submitted to the City Engineer's office for review and approval prior to the development of the site.
- B. Drainage improvements including possible on-site detention shall be provided under contract in accordance with the Subdivision Regulations and the City of Memphis Drainage Design Manual.
- C. An overall sewer plan for the entire site shall be submitted to the City Engineer prior to the approval of the first final plat.
- D. The developer should be aware of his obligation under 40 CFR 122.26 (b)(14) and TCA 69-3-101 et Seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on the site.
- E. All grading and drainage plans shall show topography a minimum distance of 100 feet off site on all sides in order to determine the effect of off site features on the proposed plan or its effect on adjacent properties

VII. DESIGN AND OTHER:

- A. Commercial and office buildings shall be constructed using a consistent style and materials.
- B. Gasoline sales islands and canopy shall be designed as an integral part of the principle structure.
- C. The developer shall grant sewer easements and install dry, gravity sewers within the site to provide for future service to this site and upstream properties.
- D. Provide documentation in the form of a FEMA Map that the site is no longer contained in the Floodway designation.
- E. An illustration and calculation of the amount and location of any wetlands on site, and a plan for the mitigation of any wetlands that will be disturbed shall be submitted to the City/County Engineer for approval prior to the development of this site.
- F. While unconfirmed at this time, this property is suspect as being located within an area that may have the geologic characteristics which allows storm water to recharge the underground aquifer. Therefore, the following condition is provided to address this potential: Unless and until specific ordinances or laws are promulgated regarding the protection of aquifer recharge areas that will regulate the underground aquifer for this property prior to Final Plan submittal, a geotechnical investigation shall be undertaken, consisting of not less than 5 soil borings distributed across the property to determine the average water conveyance characteristics of the soils on the property. Based on the results of this investigation and provided the natural geology exists on the property, and considering the general design of the development as provided in the Conceptual Development Plan, the final design of the development, and the existing and proposed topography, the quantity of water that percolates into the soil on the property during a design storm (i.e., a rainfall of 4.93 inches within a 24 hour period) shall be estimated, and portions of the storm water detention basin(s) in total with other features proposed for the developments shall be designated to allow approximately this same quantity of storm water to percolate in to the soil after development of the property.

VIII. PUBLIC SEWER, WATER AND EASEMENTS:

- A. Provisions for sanitary sewer service approval to this development shall be the responsibility of the City of Memphis.
- B. A sewer development fee shall be paid to the City of Memphis at the time of each final plan approval.
- C. Off-street sewer easements shall be a minimum of fifteen(15') feet in width.

IX. The Land Use Control Board may modify the bulk, access, circulation, parking and other site Design requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may, within ten(10) days of such action file a written appeal to the Director of the Office of Planning and Development to have such action reviewed by the Appropriate Governing Bodies.

X. SITE PLAN REVIEW BY THE OFFICE OF PLANNING AND DEVELOPMENT:

A. A Site Plan for Areas 5 and 7 shall be submitted for the review and approval of the Office of Planning and Development(OPD) with appeal to the Land Use Control Board. All property owners within the Holly Grove Estates Subdivision shall be notified and provided a fifteen(15) day response period. The provision of an up to date list of the names and addresses (with mailing labels) shall be provided by the applicant. In addition to any site plan the Holly Grove Estates Subdivision shall be provided a copy of the required comprehensive drainage study.

B. The Site Plan shall contain the following information:

1. The location, dimensions, floor area and height of all buildings, structures, signs and parking areas.
2. Specific plans for internal and perimeter landscaping and screening including plant material types and sizes.
3. The location and use of open space.
4. The proposed exterior appearance of buildings and signs.
5. Proposed means of access and circulation of automobile and pedestrian traffic.

C. The site shall be reviewed based upon the following criteria.

1. Conformance with the Outline Plan and the Subdivision Regulations.
2. Conformance to the standards and criteria for commercial planned developments contained in Sections 14.C and 14.E of the Zoning Ordinance.
3. Compatibility with adjacent properties.

XI. A Final Plan shall be filed within five(5) years of approval of the Outline Plan. The Land Use Control Board may grant extension at the request of the applicant.

XII. FINAL PLANS:

Any final plan shall include the following:

- A. The Outline Plan Conditions;
- B. A Standard Subdivision Contract as defined by the Subdivision Regulations for any needed improvements.
- C. The exact location and dimensions, including height of all buildings or buildable areas, pedestrian and utility easements, service drives, parking areas, trash receptacles, loading facilities and required landscaping and screening areas;
- D. The exterior appearance of proposed buildings and signs;
- E. The content of all landscaping and screening to be provided;
- F. The proposed means of access and circulation of automobile and pedestrian traffic;
- G. The location and ownership, whether public or private of any easement;
- H. A statement conveying all commons, open areas, lakes, drainage detention facilities, private streets, private sewers and private drainage systems shall be owned and maintained by a Property Owner's Association. A statement to this effect shall appear on the final plan;
- I. Front and rear setbacks;
- J. The standard improvement contract as defined by the Subdivision Regulations for any needed public improvements in a phased manner contiguous with development;
- K. The following note shall be placed on the Final Plat of any development requiring on-site storm water detention facilities: The area denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City or County Engineer, as applicable. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owner's association. Such maintenance shall be performed so as to insure that the system operates in accordance with the approved plan on file in the City/County Engineer's office. Such maintenance shall include, but are not limited to, removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.
- L. The recording of this Outline Plan for Canale Grove Planned Development(P.D.08-306 CC) with the Office of Shelby County Register shall supersede all previous recorded Outline Plans of development.

P.D.08-306 CC

Canale Grove Planned Development